

REMARKS

Applicant has canceled claims 1-14. Applicant herewith submits a declaration under 37 C.F.R. 1.132. This declaration has been made to place the claim in better form for examination and to further obviate the 35 U.S.C. §102(b) rejections as set forth in the Final Office Action dated September 26, 2006. It is believed that the declaration does not constitute new matter. It is submitted that this declaration obviates the rejections. Withdrawal of these rejections is respectfully requested.

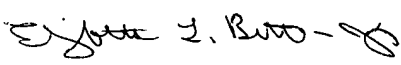
The Examiner has stated that sequence identifiers are missing from the sequences listed in Figure 3. Applicant draws the Examiner's attention to an Amendment filed on July 5, 2006 wherein the Applicant submitted an unshaded copy of Figure 3, and wherein on page 6 of 6 of Figure 3, at the end of the sequence listing, sequence identifiers were listed for each sequence listed in Figure 3. Arabidopsis is SEQ ID NO: 3; Common Bean is SEQ ID NO: 47; Soybean is SEQ ID NO: 31; Rice is SEQ ID NO: 22; Tomato is SEQ ID NO: 40; and Consensus is SEQ ID NO: 65. Applicant also notes that these sequence identifiers were also listed on page 6 of 6 of Figure 3 in the originally filed application.

The Examiner has rejected claim 15 under 35 U.S.C. §102(b) as being anticipated by Rédei (1973, Mutation Res. 18:149-162) taken with the evidence of the instant specification. Applicant herewith submits a declaration under 37 C.F.R. 1.132 wherein the Applicant declares that Redei did not observe cytoplasmic male sterility associated with the *chm* (*msh1*) mutant phenotype. Therefore the cytoplasmic male sterility phenotype of the mutant of the present invention, characterized by male sterility of the entire plant independent of any variegation phenotype, and heritably stable over several plant generations, is distinct from the phenotypes mentioned in the Redei reference. Withdrawal of this rejection is respectfully requested.

The Examiner has rejected claim 15 under 35 U.S.C. §102(b) as being anticipated by Martínez-Zapater et al (1992, Plant Cell, 4: 889-899) taken with the evidence of the instant specification. Applicant herewith submits a declaration under 37 C.F.R. 1.132 wherein the Applicant declares that Martínez-Zapater did not observe cytoplasmic male

sterility associated with the chm (msh1) mutant phenotype. Therefore the cytoplasmic male sterility phenotype of the mutant of the present invention, characterized by male sterility of the entire plant independent of any variegation phenotype, and heritably stable over several plant generations, is distinct from the phenotypes mentioned in the Martínez-Zapater reference. Withdrawal of this rejection is respectfully requested.

In view of the above remarks and submission of the declaration under 37 C.F.R. 1.132, it is submitted that the claim satisfies the provisions of 35 U.S.C. §102(b). Reconsideration of this application and an early notice of allowance are respectfully requested.

SIGNATURE OF APPLICANT, ATTORNEY OR AGENT REQUIRED					
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